

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

**TYRONE REID**

**Petitioner,**

**-v-**

**ERNIE L. MOORE, Warden**

**Respondent.**

**Case No. C-3:05-cv-326**

**Judge Thomas M. Rose  
Magistrate Michael R. Merz**

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**ENTRY AND ORDER OVERRULING REID'S OBJECTIONS (Doc. #59)  
TO THE MAGISTRATE JUDGE'S REPORT AND  
RECOMMENDATIONS; ADOPTING THE MAGISTRATE JUDGE'S  
REPORT AND RECOMMENDATIONS (Doc. #58) IN ITS ENTIRETY;  
DENYING A CERTIFICATE OF APPEALABILITY AND DENYING  
PERMISSION TO PROCEED ON APPEAL *IN FORMA PAUPERIS***

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This matter comes before the Court pursuant to Petitioner Tyrone Reid's ("Reid's") Objections to Magistrate Judge Michael R. Merz's Report and Recommendations regarding a certificate of appealability and permission to proceed on appeal *in forma pauperis*. The Report and Recommendations was issued on June 19, 2009. (Doc. #58.) On July 1, 2009, Reid filed objections. (Doc. #59.) The time has run and the Warden has not filed a response. Reid's Objections are, therefore, ripe for decision.

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Court finds that Reid's Objections to the Magistrate Judge's Report and Recommendations are not well-taken, and they are hereby OVERRULED. The Magistrate Judge's Report and Recommendations is ADOPTED IN ITS ENTIRETY.

This habeas corpus case is before this Court on remand from the Sixth Circuit to

determine if Reid should be permitted to proceed on appeal in forma pauperis and whether he should be granted a certificate of appealability for his appeal of this Court's decision on his Rule 60(b) Motion. Pursuant to the Magistrate Judge's Report and Recommendations and this Court's de novo review thereof, Reid is not granted a Certificate of Appealability. Further, Reid is not granted permission to proceed on appeal *in forma pauperis*.

**DONE** and **ORDERED** in Dayton, Ohio, this Twenty-Third day of July, 2009.

**s/Thomas M. Rose**

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THOMAS M. ROSE  
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record

Tyrone Reid #438-902  
Marion Correctional Institution  
P.O. Box 57  
Marion, OH 43301-0057